

I am a resident of the Chesapeake Bay Watershed and I am particularly concerned by the data collection methods used by the EPA for the draft TMDL. The following are specific places in the TMDL where data collection is mentioned without any detail regarding the authority to collect those data.

Page 4-12 of the Draft TMDL report states

Information related to loading from the other 60 CSO communities in the watershed includes spatial data collected as a result of a **direct survey** of the communities to support the TMDL, limited water quality and overflow data from some of the CSO communities in the watershed, and representative water quality concentrations available in the literature.

Page 4-40 of the draft TMDL report states

Digital maps of 2009 sewer service areas were provided by 257 of the 403 major wastewater treatment plants in the watershed contacted during a **2009 survey** sponsored by EPA.

These sections indicate EPA surveyed regulated entities to get information. I do not recall seeing a Federal Register notice providing notice of EPA's request to the Office of Management and Budget for authority to collect information.

I contacted my local municipality and was provided a letter they received from EPA dated September 21, 2009. It looks like a form letter because it does not even include a formal addressed to section. Looking at the letter EPA sent out, EPA included an OMB authorization number -- The OMB number is 2040-0071. I looked up 2040-0071. 2040-0071 provides authority for EPA to collect data from the States for the water quality report required under the Clean Water Act. It estimates a burden based on 59 respondents. I do not understand how EPA could interpret this to provide authority to request data from over 400 hundred wastewater plants. Unless of course it was EPA's intent to mislead the municipality into thinking EPA had authority when it did not.

Can you please explain what authority EPA had to survey over 400 entities? Why did EPA cite 2040-0071 as authority? The data requested required a significant expenditure of resources by the wastewater plants and the plants were provided very little time. Also, given the fact EPA was making numerous public appearances talking about "consequences" for not following EPA direction, the wastewater plants had little choice but to comply. EPA should be required to pay back the money wasted by the 400+ municipal agencies that had to respond to this.

This is from the Federal Register Notice EPA published when they were finalizing 2040-0071.

December 18, 2007

ENVIRONMENTAL PROTECTION AGENCY
[EPA-HQ-OW-2003-0026, FRL-8507-8]

Agency Information Collection Activities; Submission to OMB for Review and Approval;
Comment Request; National Water Quality Inventory Reports (Renewal); EPA ICR No. 1560.08,
OMB Control No. 2040-0071

AGENCY: Environmental Protection Agency (EPA).
ACTION: Notice.

Abstract: Section 303(d) of the Clean Water Act requires States to identify and rank waters which cannot meet water quality standards

(WQS) following the implementation of technology-based controls. Under Section 303(d), States are also required to establish total maximum daily loads (TMDLs) for listed waters not meeting standards as a result of pollutant discharges. In developing the Section 303(d) lists, States are required to consider various sources of water-quality related data and information, including the Section 305(b) State water quality reports. The State Section 305(b) reports contain information on the extent of water quality degradation, the pollutants and sources affecting water quality, and State progress in controlling water pollution.

EPA's Assessment and Watershed Protection Division (AWPD) works with its Regional counterparts to review and approve or disapprove State Section 303(d) lists and TMDLs from 56 respondents (the 50 States, the District of Columbia, and the five Territories). Section 303(d) specifically requires States to develop lists and TMDLs "from time to time" and EPA to review and approve or disapprove the lists and the TMDLs. EPA also collects State 305(b) reports from 59 respondents (the 50 States, the District of Columbia, five Territories, and 3 River Basin commissions).

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 66,590 hours per year per respondent for the 56 respondents with both 305(b) and 303(d) responsibilities and TMDL development activities. The average reporting burden for the 3 respondents with only 305(b) responsibilities is estimated at 3,659 hours per year. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: States, Territories, River Basin Commissions.

Estimated Number of Respondents: 59.

Frequency of Response: Biennially.

Estimated Total Annual Hour Burden: 3,740,017.

Estimated Total Annual Cost: \$177,837,808, includes no capital or O&M costs.

Changes in the Estimates: There is no change in hours in the total estimated burden currently identified in the OMB Inventory of Approved ICR Burdens.